

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7463 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SORATH LOHANA EDUCATION TRUST

Versus

STATE OF GUJARAT

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Appearance:

MS SEJAL K MANDAVIA for Petitioners  
MS HARSHA DEVANI, AGP for Respondent No. 1  
MR VIJAY H PATEL for Respondent No. 2

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 04/12/96

ORAL JUDGEMENT

Rule. Service of rule waived by Ms. Harsha Devani, Ld. AGP for the State and Mr. V.H. Patel, learned advocate for respondent no. 2 Board.

2. On going through the order dated 20/3/1995 Annexure-C in Appeal No. 2193-6 Secondary School Appeals Cell of the Education Department, Sachivalaya, Gandhinagar it clearly appears that the reasons given by the appellate authority are in favour of the petitioners.

However, the ground for dismissing the appeal is granting recognition/permission to start girls' school with grant in the face of the fact that fees are not charged from the girl students and the school might have to be run from donations. The grievance against this reason is that no opportunity has been given to the petitioner to deal with such a ground canvassed for dismissing the appeal. It appears that no opportunity is given to the petitioner to meet with such a new ground. In that view of the matter the impugned order of the appellate authority Annexure-C is required to be set aside and the matter is required to be remanded to the appellate authority to decide the same in accordance with law after giving opportunity to the petitioner to show cause against any new ground as above and after hearing the petitioners.

3. The appellate order dated 20/3/1995 Annexure-C impugned in this petition is hereby quashed and set aside. The appeal of the petitioners before the aforesaid appellate authority is revived. The said appellate authority shall hear the appeal in accordance with law after giving opportunity to the petitioners of being heard as also of assigning the explanation for any new ground, if sought to be canvassed for dismissing the appeal. Such decision shall be taken by the appellate authority as expeditiously as possible preferably within a period of eight weeks from the date of receipt of writ of this direction.

Rule made absolute in the above term with no order as to cost.

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